IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A. No. 3770 of 2005
Date of Decision: 7.8.2006

Lal Chand

...Appellant.

Versus

Ram Lal

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr. Nasib Singh Gill, Advocate for the appellant.

AJAY KUMAR MITTAL, J.

This regular second appeal is directed against the judgment and decree dated 13.6.2005 passed by the District Judge, Ferozepur whereby the judgment and decree dated 11.10.2003 passed by Civil Judge (Junior Division), Abohar dismissing the suit of the plaintiff, was affirmed.

Briefly stated the facts of the case are that the plaintiff filed a suit for declaration on the allegations that besides other land, land measuring 31 kanals 8 marlas situated in village Amarpur Tehsil Abohar was originally under the ownership of Hira son of Pema father of the parties. After his death, mutation of inheritance was sanctioned in equal shares on the basis of the Will in the name of the parties. It was pleaded that the halqa Patwari recorded the girdawari for Rabi 1994 as mutnaza and the Tehsildar visited the spot and corrected the girdwari in the names of the parties on 30.11.1994. It was further pleaded that no party filed any appeal against that order and as such the same had become final and rapat No.187 dated 20.1.1995 was also recorded in the revenue record. It was further pleaded that thereafter the defendant entered into a conspiracy with the

halqa Patwari and got entered the girdawari of land measuring 31 kanals 8 marlas in his name.

Upon notice, the defendant filed written statement by raising various preliminary objections. It was pleaded that the plaintiff had also filed a suit on the same cause of action and for the same property between the same parties on 27.4.1999 and the same was decided on 18.1.2000. It was further pleaded that against the order dated 30.11.1994 passed by the Tehsildar, an appeal is pending before the Commissioner, Ferozepur. It was also pleaded that the barabandi was in the name of the father of the parties. The other averments made in the plaint were denied.

The trial court took issues No.1 to 5 together being inter linked and by appreciating the evidence led by the parties decided the same in favour of the defendant and against the plaintiff and held that the suit of the plaintiff was barred under Order 2 Rule 2 of the Code of Civil Procedure. Accordingly, the trial court dismissed the suit filed by the plaintiff vide judgment and decree dated 11.10.2003. On appeal, the lower appellate court upheld the findings recorded by the trial court and dismissed the appeal vide judgment and decree dated 13.6.2005.

Learned counsel for the appellant could not show that the findings recorded by the courts below suffer from any misreading or misappreciation of evidence which may warrant interference by this court in the regular second appeal. No question of law, much less a substantial question of law arises in this appeal.

In view of the above, finding no merit in this appeal, the same is hereby dismissed.

August 7, 2006 **(AJAY KUMAR MITTAL)**
gbs **JUDGE**